

REMARKS

In the non-final Office Action, the Examiner rejected claims 19, 21, 22, 24, 25, and 27 under 35 U.S.C. § 102(e) as anticipated by Benmohamed et al. (U.S. Patent No. 6,795,399). The Examiner objected to claims 20, 23, and 26 as dependent upon a rejected base claim that would be allowable if rewritten into independent form to include the features of the base claim and any intervening claims.

By this Amendment, Applicant amends claims 20 and 23 to improve form. Claims 19-27 remain pending.

Applicant appreciates the Examiner's identification of allowable subject matter, but respectfully traverse the Examiner's rejection under 35 U.S.C. § 102.

In paragraph 2 of the Office Action, the Examiner rejected claims 19, 21, 22, 24, 25, and 27 under 35 U.S.C. § 102(e) as allegedly anticipated by Benmohamed et al. Applicant respectfully traverses the rejection.

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach every aspect of the claimed invention. Any feature not directly taught must be inherently present. In other words, the identical invention must be shown in as complete detail as contained in the claim. See M.P.E.P. § 2131. Benmohamed et al. does not disclose or suggest the combination of features recited in claims 19, 21, 22, 24, 25, and 27.

Claim 19, for example, is directed to a system for identifying a path for a multiple point communication service within a network that includes a plurality of ingress nodes and a plurality of egress nodes and a plurality of links connecting to the ingress nodes and the egress nodes. The system comprises means for setting an objective function for minimizing a link load in the

network; means for setting a first constraint expression for deriving the link load; means for generating a second constraint expression for selecting a route for data traffic received by the ingress nodes; means for generating a third constraint expression for calculating a link band for the links based on the data traffic received by the ingress nodes; means for generating a fourth constraint expression to assure that a link capacity limit associated with the links is not exceeded; and means for identifying a path for the multiple point communication service based on the objective function and the first, second, third, and fourth constraint expressions.

Benmohamed et al. does not disclose or suggest the combination of features recited in claim 19. For example, Benmohamed et al. does not disclose or suggest means for setting an objective function for minimizing a link load in the network.

The Examiner alleged that Benmohamed et al. discloses this feature and cited the abstract of Benmohamed et al. for support (Office Action, page 3). Applicant disagrees with the Examiner's interpretation of Benmohamed et al.

In the abstract, Benmohamed et al. discloses:

Methods and apparatus are provided for designing IP networks with substantially improved performance as compared to existing IP networks such as, for example, those networks designed under best-effort criteria. Particularly, the invention includes methods and apparatus for: computing worst-case and optimistic link capacity requirements; optimizing network topology; and determining router placement within a network.

In this section, Benmohamed et al. discloses a method that computes worst-case and optimistic link capacity requirements, optimizes network topology, and determines router placement in a network. Nowhere in this section, or elsewhere, does Benmohamed et al. disclose or suggest means for setting an objective function for minimizing a link load in the network, as required by claim 19.

Because Benmohamed et al. does not disclose or suggest means for setting an objective function for minimizing a link load in the network, Benmohamed et al. cannot disclose or suggest means for identifying a path for the multiple point communication service based on the objective function and the first, second, third, and fourth constraint expressions, as further recited in claim 19.

The Examiner alleged that Benmohamed et al. discloses this feature and cited column 5, lines 29-30, of Benmohamed et al. for support (Office Action, page 4). Applicant disagrees with the Examiner's interpretation of Benmohamed et al.

At column 5, lines 29-32, Benmohamed et al. discloses

The results of the final design are output (step 210), e.g., in the form of information displayed to the user of the design system, including: (1) the vector \vec{C} ; (2) the route of each traffic flow f_i ; and (3) the corresponding network cost.

In this section, Benmohamed et al. discloses that the results of the final design include a vector \vec{C} , the route of each traffic flow, and corresponding network cost. Even assuming, for the sake of argument, that the final design in Benmohamed et al. identifies a path for a multiple point communication service (a point that Applicant does not concede), nowhere in this section, or elsewhere, does Benmohamed et al. disclose or suggest that the final design is based on an objective function for minimizing a link load in the network, as would be required by claim 19.

For at least these reasons, Applicant submits that claim 19 is not anticipated by Benmohamed et al. Claim 21 depends from claim 19 and is, therefore, not anticipated by Benmohamed et al. for at least the reasons given with regard to claim 19.

Independent claims 22 and 25 recite features similar to, but possibly different in scope from, features recited in claim 19. Claims 22 and 25 are, therefore, not anticipated by

Benmohamed et al. for at least reasons similar to reasons given with regard to claim 19.

Claim 24 depends from claim 22, and claim 27 depends from claim 25. Claims 24 and 27 are, therefore, not anticipated by Benmohamed et al. for at least the reasons given with regard to claims 22 and 25.

In view of the foregoing amendments and remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to certain assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute these assertions/requirements in the future.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,
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